

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 19, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RUSSELL JONES and REINA JONES, a
married couple,
Plaintiffs,
v.

NO. 2:19-CV-00264-SAB

GRANT COUNTY HOSPITAL DIST.
NO. 1 d/b/a/ SAMARITAN HOSPITAL, a
Washington Municipality,
Defendant.

**ORDER GRANTING MOTION
FOR PARTIAL SUMMARY
JUDGMENT RE: DISMISSAL
OF STATE LAW CLAIMS FOR
FAILURE TO EXHAUST**

Before the Court is Defendant's Motion for Partial Summary Judgment Re: Dismissal of State Law Claims for Failure to Exhaust, ECF No. 72. A hearing by videoconference on the motion was held on February 17, 2021. Plaintiffs were represented by Ryan Best. Defendant is represented by Amy Mensik.

Defendant moves for summary judgement dismissal of Plaintiffs' state law claims due to Plaintiffs' failure to exhaust pre-suit tort notice requirements. Plaintiffs agree they did not submit the pre-suit tort notice prior to filing their Amended Complaint and agree that the claims should be dismissed.

Whether the Court dismisses the claims with or without prejudice remains to be decided. At the hearing, Defendant asked the Court to dismiss the claims with prejudice. Plaintiffs assert the proper course of action is to dismiss the claims without prejudice.

**ORDER GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT
RE: DISMISSAL OF STATE LAW CLAIMS FOR FAILURE TO EXHAUST**

1 Because the issue was not fully briefed, the Court granted the parties leave
2 to file supplemental briefing. This Order memorializes the Court's oral ruling.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Defendant's Motion for Partial Summary Judgment Re: Dismissal of
5 State Law Claims for Failure to Exhaust, ECF No. 72, is **GRANTED**.

6 2. On or before **February 24, 2021**, Plaintiffs shall file briefing
7 regarding whether the claims should be dismissed with or without prejudice.
8 The briefing should be no longer than 10 pages.

9 3. On or before **February 26, 2021**, Defendant shall file its responsive
10 briefing as to whether the claims should be dismissed with or without
11 prejudice. The briefing should be no longer than 10 pages.

12 **IT IS SO ORDERED.** The District Court Executive is hereby directed to
13 file this Order and provide copies to counsel.

14 **DATED** this 19th day of February 2021.



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20 Stanley A. Bastian
21 Chief United States District Judge
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